evidence of local usage should be excluded. The second objection is that, even if the amendment is adopted, there would be a practical difficulty in its operation. Generally, though documents are not executed by, or to, Europeans, they deal with such documents and become the final party interested. Cheques and Bills of Exchange executed between natives are very often negotiated in favour of Europeans, and I believe that about 90 per cent of the Bills in the Alleppey Bank will be of this description. I do not think my friend wants to exclude these. On these two grounds, I oppose the amendment.

After some discussion, the motion was put to the vote and lost.

Mr. Prince.—I beg to move that the Bill be taken up and passed at a future meeting of which notice shall be given.

Seconded by Mr. Thanu Pillai.

Carried.

VAKILS REGULATION AMENDMENT BILL.

Mr. Ramier.—I beg to move that the Select Committee's Report be taken up for consideration. The Report and the amended Bill have been before the Council for nearly three months, and we have received some invaluable suggestions from quarters where we would naturally expect them, namely, the local Vakils Association and the Vakils in the Mofussil. I think it is now time that the Council takes up the Bill for consideration.

Seconded by Mr. Prince.

Carried.

Section 5.

Mr. Kochukrishna Marar.—I beg to propose that the following be substituted for section 5:—"Subject to the rules under section 4, the High Court is empowered to admit Vakils to the High Court and the subordinate Courts." The object of this amendment is to remove the possible restriction in number contemplated by the section. The soundness of the principle upon which the restriction is based is itself open to question. I would, however, press the amendment upon the ground that such a power does not appear to have been given to the British Indian High Courts; and there is no reason to apprehend that, for years to come, the Travancore Bar will be inconveniently over-crowded.

Seconded by Mr. Poonen.

Mr. Ramier.—I am not for this amendment. No doubt, the words which the mover wants to omit in the section, as it is, convey a meaning that the High Court is competent to limit the number of Vakils in any particular Court, if it deems it necessary. My learned friend, Mr. Kochukrishna Marar, thinks that this power in the High Court is not necessary and desirable under the present state of the profession in the country. I am sorry I am unable to agree with him. I, however, doubt whether the omission of the words as proposed by my friend will secure the object aimed at by him, in the absence of a provision laying a statutory obligation on the High Court to admit every person who qualifies himself under the law as a Vakil.

Mr. Prince.—I support the amendment, and I have a strong reason for doing so. From the standpoint of the practising Vakils, it will be a very good thing to limit the number, for it would give the others who are already there an opportunity for making fees. But it seems to me there is a principle involved in the question before us. Every person has a right to choose his own profession. A student says to himself:—'I don't want to be a doctor. I don't want to be an engineer. I will be a lawyer.' He goes up for the law examinations and qualifies himself. I do not see why the High Court or the Government or anybody else should stand in his way. It is a question of the survival of the fittest. If the new Vakils are better than the old, the latter will naturally go out. I say, again, we should not prevent any person who has qualified himself for the profession from entering it, if he chooses to do so.

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Mr. Thanu Pillai.—I would support the amendment, for, I think, there should be no restriction in this respect at least for some years.

Mr. Maltby.—I am in favour of the amendment. It seems to me that if there is to be a restriction, it should be by raising the qualification.

On being put to the vote, the amendment was carried by majority.

At this stage, Mr. Prince left with the permission of the President.

SECTION 6.

Mr. Thanu Pillai.—I beg to propose that the following be added as Explanation 2:—"Nothing in this section shall be deemed to take away the power of a Criminal "Court to permit any person to appear and plead in any criminal case before that "Court under the provisions of the Criminal Procedure Code." I do not think it is the intention of the Council to prevent Criminal agents from appearing and pleading for parties in criminal cases with the permission of the Court. But section 6 read along with the definition of the term 'pleader' in the Criminal Procedure Code, may lead to a different construction. From one of the petitions received, we see that the wording of the section has already given rise to misapprehension. The object of the amendment is to remove all possible doubt on the point.

Seconded by Mr. Maltby.

Carried.

SECTION 8.

Mr. Kochukrishna Marar.—I have three amendments to propose in this section. The first is to insert between the words "party" and "or" in line 6 of clause (*a*), the words, "or by his recognised agent." The object of this amendment is to enable one Vakil to take instructions from another Vakil engaged by the recognised agent of the party.

Seconded by Mr. Thanu Pillai.

Carried.

Mr. Kochukrishna Marar.—My next two amendments are, to omit the words "or any other Vakil" in clause (*c*) and the words "or other Vakil" in clause (*d*). It is difficult to understand a Vakil paying remuneration to a common person for bringing work to another Vakil.

Seconded by Mr. Poonen.

Mr. Thanu Pillai.—I oppose the amendment. The object of these two clauses is to prevent not only the introduction of a Vakil to a client by a tout to whom a portion of the fee paid or payable, has been given or promised to be given as a remuneration, but also the attempt, direct or indirect, on the part of the Vakil to obtain such an introduction by means of *any* remuneration,—in other words, to prevent any dealing between Vakils and touts. This object, I am afraid, will be defeated if the words referred to in the amendment are omitted. Without meaning any disrespect, I may observe that it is easy to conceive cases of Vakils trying to help each other.

President.—There may also be an association of Vakils.

Mr. Thanu Pillai.—Such cases may also occur. In my humble opinion, the words which it is proposed to omit contain a wholesome provision which it would be well to retain.

After some further discussion, the amendment was put to the vote and lost.

SECTION 9.

Mr. Kochukrishna Marar.—My first amendment in this section is to substitute for the words "practising in," the words "attached to." The object is to take away from the Judges of subordinate Courts the power to proceed against Vakils of superior Courts.

Seconded by Mr. Poonen.

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The President observed that whatever exceptions may be made in favor of the Vakils of the High Court on account of their higher status and rank, it is not desirable in the interests of discipline and good administration that the Court before whom a Vakil of another Court practises should be deprived of all control over him.

The motion was put to the vote and lost.

Mr. Kochukrishna Marar.—My next amendment is to insert the words "or neglect" between "misconduct" and "as" in line 4 of para 1. This is only to bring the section in conformity with clause (*b*) of section 8.

Seconded by Mr. Ramier.

Carried.

Mr. Kochukrishna Marar.—In para 5, omit the words "pending the investigation" and substitute instead, the words "after the submission of their report and pending." The object is to prevent a Vakil charged under this section from being suspended until the Judge or Magistrate, as the case may be, is satisfied that a *prima facie* case has been made out against such Vakil. I am not unaware that the wording of the section as it stands is similar to the wording in the British Indian enactment, but the amendment proposed appears to be more in consonance with fairness and justice.

Seconded by Mr. Ramier.

Mr. Thanu Pillai.—I am not for the amendment. The section is taken from the British Act and I do not see why we should make a deviation in this respect. It is, to my mind, unseemly to allow a Vakil to practise, while an enquiry against him is going on. I am aware that in the case of public servants suspended for enquiry into their misconduct, they will be entitled to full pay during the period of suspension, if the enquiry results in acquittal; whereas the Vakil will have no recompense for the loss sustained during the period of suspension. But, there is the guarantee that no Court would start an enquiry against a member of the bar without sufficient cause.

President.—If in the course of the enquiry a Vakil is allowed to practise, the prestige of the Court and the dignity of the proceedings are likely to suffer.

After some discussion, the motion was put to the vote and lost.

Mr. Thanu Pillai.—I beg to propose that the following proviso be added at the end of the section: "Provided that no proceeding under this section shall be taken against a Vakil of the High Court without the sanction of the High Court." This amendment, I am sure, will commend itself to the Council. Considering the status and position of the Vakils of the High Court, I think they should be treated differently from other Vakils. Further, it is in the interests of the client population that superior Vakils should appear for them in the subordinate Courts, and nothing will deter them from appearing in lower Courts so much as the fear that they may, at any moment, be subjected to an enquiry by such Courts. I believe that, in British India, the Vakils of the High Court do not come under the Legal Practitioners' Act. I think the same protection should be extended to the Vakils of our High Court in this respect.

Seconded by Mr. Kochukrishna Marar.

Mr. Ramier.—I support the amendment and would add that the High Court have suggested a proviso to the same effect.

Carried.

SECTION 10.

Mr. Poonen.—I beg to propose that this Section be omitted. On going through this Bill, it would be evident to any one that most of its provisions are hard upon the Vakils who are to be affected by them, and the provision contained in section 10 is especially so. As the section now stands, it is im-

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perative upon a Vakil, to notify in writing to the Court previously, his inability to attend Court in consequence of indisposition or other sufficient cause. If he does not do so, he is punished with a fine not exceeding 20 Rs. Now, it may not be always possible for a Vakil to notify previously in writing, his inability to attend Court to conduct a case. We all know that a Vakil, as any other human being, might fall ill suddenly. He might have prepared his cases for the day, and he might have got ready to go to the Court, but just at the moment he is to start for the Court he falls suddenly ill. In such a case how can he notify to the Court, his inability to attend. If the notification does not reach the Court at the time his case is taken up, the Court may punish him with a fine not exceeding 20 Rs. In some cases, a vakil may have made a mistake in the date fixed for the hearing of a case in which he is engaged. It may sometimes happen that the Vakil's time may be a little behind the Court time. It would be very hard, indeed, if the Vakil is to be punished in such cases for want of the necessary notification.

The whole tenor of this Bill is hard upon the Vakils. The pains and penalties they are subjected to under the Bill are, in my opinion, very heavy. They are treated, in some respects, as worse than public servants and not as a body of intelligent professional gentlemen, who are able to help the Courts in the administration of justice, and it is time that they were considered so. Representations on this Bill are made by the Munsiffs' Court Vakils of Tiruvella, and Muvattupuzha, and also by some Vakils of Nagercoil. The status of our Vakils of all the Courts is different from what it was some 20 years ago. If this Bill was being discussed some 20 years ago, none of these Vakils would have opened their mouths against any of its provisions. As these intelligent professional gentlemen are fighting for their just rights, we must give due consideration to their reasonable demands, when we are legislating on their behalf. As cases of gross neglect or improper conduct on the part of the Vakils, are dealt with under clause (*b*) of section 8, I think the retention of section 10, is unnecessary. I would, for the foregoing reasons, move that section 10 of the amended Bill be omitted.

Seconded by Mr. Kochukrishna Marar.

Mr. Ramier.—I have already expressed my dissent to the retention of this section in the Select Committee's report. The several petitions received from various quarters only confirm me in the same view. I have already stated that there is no similar provision in the Legal Practitioner's Act of British India and I think the object of this section is sufficiently secured by clause (*b*) of section 8. I would, therefore, gladly support this amendment.

Mr. Maltby.—I am very strongly against the amendment. I will tell you what happened two days ago. I came all the way from Alleppey to Quilon, to try a case against a European British subject. On the first day, the Vakil for the accused was an hour late. On the second day, the Vakils on both sides were late. I was put to great inconvenience and, if I had come away in a hurry, the parties and witnesses would have had to suffer great inconvenience in coming to Alleppey. I think the section, if at all, is not sufficiently severe. I would even have 'hour' for 'day.'

On being put to the vote, the motion was lost.

Mr. Kochukrishna Marar.—As the proposal to omit the section has been vetoed, I beg to propose the amendment of which I have given notice, that is, to substitute the following for the section as it now stands:—"No Vakil engaged in a case shall fail to attend in Court on any day fixed for the hearing of such case except on the ground of indisposition or other sufficient cause; in which instance he shall, whenever possible, notify previously in writing to the Court his inability to attend on such day.

"If any Vakil engaged in a case shall, without giving such intimation, fail to attend in Court on any day fixed for the hearing of such case, the Court may impose on such Vakil a fine not exceeding Rs 20."

The reasons for this amendment have been mostly stated by Mr. Poonen, and they are set forth also in the memorials received. One other reason which I may add, is that when more Vakils than one are engaged in a case and one of them

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has undertaken the conduct of the case, it may be quite unnecessary for the others to put in appearance.

Mr. Poonen —As my amendment to omit the section has been thrown out, I heartily second this amendment.

Carried.

SECTION 13.

Mr. Kochukrishna Marar.—I propose that the section be omitted. In the first place, the section draws a difference between Government employment and employment under a private person or body. While only permanent employment under Government disentitles one to continue as a Vakil, any employment, temporary or permanent, under a private individual or body necessitates the delivering up of the sannad. In the second place, the nature of the employment is not specified.

The motion not being seconded, was not taken up for consideration.

Mr. Poonen.—I beg to propose that the words, "or employment under any private person or body," be omitted. As the section now stands, a Vakil accepting a permanent appointment under Government, or any appointment under a private person or body must give up his practice. I agree that when a Vakil accepts a permanent appointment under Government, he must give up his practice, because he will be expected to devote his whole time to the work entrusted to him by the Government. But I do not see why a Vakil accepting any appointment under any private person or body, which will not interfere with his practice, should cease to practise. Vakils who have good practice would not care to accept appointments under Government, much less under private persons or bodies. It is only junior members of the bar, who have not much practice, that would seek appointments which will not interfere with their practice. Their work, everywhere, will be up hill work, and it will be of great help to them, if they can find appointments that will bring them some income over and above their practice. We all know that most junior members of the bar have to wait a long time before they make a name and win the confidence of the client population. They may be very good jurists, very good writers, and very good speakers, but they may not get a chance, for years together, of opening their mouths before the Courts. Competition in the legal profession is becoming very great in this country also. In some cases, a junior member of the bar, or any member of the bar who has not good practice, has to attend the Court to which he is attached, only two or three days in a week, and why should he not be allowed to make use of the remaining time at his disposal, for his own benefit and for the benefit of others? What objection is there in such a Vakil accepting the appointment of Manager or Secretary and Treasurer of a Company, for which he may be the fittest man. I cannot see how this should go against the prestige of the profession. A Vakil who accepts appointment under a private person or body and who also practises, would show equal diligence in the discharge of the duties devolving on him in these two fields. If, on the other hand, he is guilty of gross neglect in the discharge of his professional duty, he can be punished under section 8 of the amended Bill. Such being the case, I see no objection in allowing Vakils to hold appointments under private persons or bodies without giving up their sannads. I would, therefore, move that the words "or employment under any private person or body" in section 13, be omitted.

Seconded by Mr. Maltby.

Mr. Ramier.—In supporting the amendment, I would like to say a word of explanation. We discussed the matter in the Select Committee, but found a difficulty in using the words 'permanent employment' in the case of private persons or bodies. In the light of the various representations received I think the words mentioned in the amendment may be omitted. As pointed out by Mr. Poonen, the Vakils who get large practice are not likely to take up such employment.

Mr. Thanu Pillai.—I am not going to oppose the amendment, but I must say a word in explanation, the words proposed to be omitted having been put in by the Select Committee of which I was a member. I then held and still hold that a restriction like the one contemplated by the section is necessary for the prestige

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of the profession. But after hearing what my friends Messrs. Poonen and Ramier have said as to the manner in which the restriction would affect certain members of the profession, and after reading the memorials, I am disposed to think that the restriction may be removed.

Carried.

Mr. Ramier.—In the absence of Mr. Prince, I beg to propose the amendment suggested in his memo appended to the Select Committee's Report. But in the wording of the amendment I would make a slight modification. I propose to insert after "Government" in line 4, the words "other than that of a Sirkar Vakil, Professor of Law or Law Reporter."

Seconded by Mr. Kochukrishna Marar.

Carried.

SECTION 14.

Mr. Kochukrishna Marar.—I propose that the section be omitted. The practical result of retaining it would be to deny to parties the services of Barristers Advocates, and Vakils attached to other High Courts. Even in the case of Vakils attached to our own Courts, the abstention from practice may be due to prolonged indisposition or other like causes.

The motion not being seconded, was not taken up for considration.

Mr. Ramier.—As there appears to be some doubt as to the scope of the section, I beg to propose, in view to making the intention clear, that the word "wholly" be inserted between "Vakil" and "abstains." It is not our object to apply the provision to Vakils of other High Courts, but only to those who lose all touch with the profession by wholly abstaining from practice in law anywhere.

Mr. Thanu Pillai.—I second the amendment, and wish to add as a member of the Select Committee that there was no intention whatever to bring within the operation of the section any person who has been in the profession, whether in Travancore or elsewhere.

Carried.

Mr. Thanu Pillai.—I beg to propose that the following proviso be added to the section:—"Provided that a Vakil whose sannad has been delivered up under "this section shall be entitled to a fresh sannad, if qualified under the Rules passed "under section 4." The object of the amendment is to remove the doubt, which is evidently entertained by some of the memorialists, that the operation of the section, as it now stands, would be to prevent a person who has been unable to practise for five years from getting back into practice at a subsequent period. To say that the delivering up of the sannad under this section would operate as a permanent disqualification would, doubtless, be hard, and is not intended. But, it might be said that a person who abstains from practice for a period of five years, would lose touch with the profession. To meet this objection, and in view of the fact that the Rules passed under section 4 may change from time to time, I have put in the words, "if qualified "under the Rules passed under section 4." As observed by Mr. Maltby, the High Court may, in course of time, raise the qualification for Vakils. It is, therefore, necessary that a person who seeks to re-enter the profession after delivering up his sannad under this section, should be duly qualified under the Rules in force at the time of his application for a fresh sannad.

Seconded by Mr. Maltby.

Carried.

SECTION 15.

Mr. Thanu Pillai.—I beg to propose the insertion of the words "with Our previous sanction" between "High Court" and "shall." This, I am sure, will not be a matter for contention. The fixing of fees contemplated by the section is of the

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nature of imposing a fiscal burden on the people, and as such requires the sanction of the Sovereign

Seconded by Mr. Rajaram Row.

Carried.

SECTION 16.

Mr. Kochukrishna Marar.—I beg to propose that 'fourteen' be substituted for 'seven,' and that after, "decree or order," the following be added:—"Provided it shall be lawful for any Court to excuse any delay in the production of any such certificate if proper grounds be shown." The amendment is necessary for the convenience alike of Vakils and parties.

Seconded by Mr. Poonen.

Carried.

SECTION 17.

Mr. Kochukrishna Marar.—I propose that para 1 of the section be omitted, and in para 2, the words, "provided that notwithstanding anything contained in this section," be also omitted, and that in line 4 of para 2 the word "express" be substituted for "written". The second and third admendments follow from the first. The provision that all agreements between Vakils and their clients should be in writing is opposed to the case law of the State. If oral sales can be allowed, why not a Vakil's agreement? The interests of the clients are sufficiently protected by section 18, as unconscionable agreements may be ordered to be cancelled, and the burden of proof is thrown on the Vakil.

Seconded by Mr. Poonen.

President.—It is in the interests of the Vakils that the agreement should be in writing. Though oral transactions are allowed, it is a known fact that they lead to endless disputes and contentions. It is highly undesirable that such disputes should arise and be fought out in Courts between Vakils and their clients.

After some discussion, the motion being put to the vote was lost.

SECTION 21.

Mr. Kochukrishna Marar.—I beg to propose that 'twice' be substituted for 'ten times' and 'one month' for 'six months'. The punishment is too heavy and hence the proposed reduction.

Seconded by Mr. Poonen.

Mr. Thanu Pillai.—I would rather omit the section than provide so light a punishment. The offence contemplated is a serious one.

President.—Exactly. If a person without a sannad conducts a case, he not only practises deception on the Court, but gives room for serious doubt regarding the legality of the whole proceedings. All these consequences must be borne in mind in fixing the maximum punishment. It is not a light indiscretion.

The motion being put to the vote, was lost.

SECTION 24.

Mr. Kochukrishna Marar.—I propose that 'appeal' be substituted for 'revision'. The object of the amendment is to enable Vakils to go into questions of fact which may not be allowed in a case of revision.

Seconded by Mr. Thanu Pillai.

The President observed that while revision will be discretionary with the High Court, appeal will be the right of the aggrieved Vakil.

Carried.

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SECTIONS 27 & 28.

Mr. Kochukrishna Marar.—I beg to propose that section 27 be omitted, and that in section 28 the words, "and when the Vakkalatnamah has granted him the authority described in section 27," be omitted, and the words "unless it sees any reason to the contrary," be inserted between 'Court' and 'shall' in line 6. These amendments follow one from the other. The object is to bring the rule in conformity with the practice in British India. The principle has also been occasionally recognised in the Travancore High Court.

Seconded by Mr. Poonen.

Mr. Thanu Pillai.—I oppose the amendment. In the interests of the parties, it is undesirable that a Vakil whose services he has engaged should have it in his power to entrust the case to another without his knowledge. I would even go further, and give no power at all to a Vakil to appoint another Vakil. The interests of the client are no way less important than the convenience of the Vakils and the Courts.

President.—So long as a written Vakkalat is necessary for a Vakil to conduct a case for his client, it is necessary that the power to appoint another Vakil should also be in writing.

After some discussion, the motion being put to the vote was lost.

Schedule II.

Mr. Ramier.—I beg to propose that the words 'District and Sessions' be substituted for 'Zillah' and the words 'Munsiffs' and Magistrates' Courts' for "Munsiffs' Court." This amendment is in conformity with existing practice. Vakils of the District and Sessions Court are allowed to practise in the Munsiffs' and Magistrates' Courts within the District, and Munsiff Court Vakils, to practise in the Magistrates' Courts, situated within the local jurisdiction of the Munsiff's Court. The particular Courts covered by each sannad will, of course, be specified therein, under para 2 of section 6.

Seconded by Mr. Kochukrishna Marar.

Carried.

Mr. Ramier.—I propose that the Bill as now amended be taken up and passed at a future meeting of which notice shall be given.

Seconded by Mr. Thanu Pillai.

Carried.

BILL TO AMEND THE TOWNS CONSERVANCY AND IMPROVEMENT REGULATION.

Mr. Thanu Pillai.—I beg to present the Report of the Select Committee on this Bill and move that the Report and the amended Bill be published in the Gazette.

The motion was put and agreed to.

The Council adjourned at 6-40 P. M.

K. KRISHNASWAMY RAO,
President.

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